

**RULES PRESCRIBING THE
IMPLEMENTATION OF ARTICLE 17 OF
TITLE 40, C.R.S.
TELECOMMUNICATIONS RELAY
SERVICES FOR DISABLED TELEPHONE
USERS**

4 CCR 723-28

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**RULES PRESCRIBING THE
IMPLEMENTATION OF ARTICLE 17 of TITLE 40, C.R.S.
TELECOMMUNICATIONS RELAY SERVICES FOR
DISABLED TELEPHONE USERS**

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose for these rules is to implement Article 17 of title 40, C.R.S., Telecommunications Relay Services for Disabled Users. These Rules are intended to conform with the applicable section of the Federal "Americans with Disabilities Act of 1990" 47 U.S.C. Sec. 225, thereby permitting the Federal certification of the Colorado dual party relay system. The Rules are consistent with the Commission's existing quality of service Rules (4 CCR 723-2). The Rules require relay providers to communicate each message promptly and accurately, to maintain the privacy of persons who use the relay service, and to ensure the confidentiality of all parties in connection with a relayed message.

The Rules specify the types of calls that are included as telecommunications relay services, and specifically requires that the costs of any long-distance service or any other service that is not a basic local exchange service be borne by the disabled telephone user. The Rules prescribe the procedures for administering the Colorado Disabled Telephone Users Fund for telecommunications relay services for disabled telephone users.

The rules are clear and simple and can be understood by persons expected to comply with them. They do not conflict with any other provision of law and there are no duplicating or overlapping rules.

The statutory authority these Rules is newly enacted §§ 40-17-101 through 104 C.R.S. (H.B. 92-1071, Session Laws).

RULE 1: DEFINITIONS

As used in this rule, unless the context otherwise requires:

- 1.1 "Local exchange provider" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.
- 1.2 "Telecommunications relay services" means any telecommunications transmission services that allow a person who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is

functionally equivalent to the ability of an individual who does not have a hearing or communication between a person who uses a telecommunications device or other nonvoice terminal device and an individual who does not use such device.

- 1.3 "Telephone access line" means the access to the local exchange network, as defined in tariffs approved by the Commission, from the premises of an end user customer of a local exchange company to the telecommunications network to effect the transfer of information.

PART 1

CONFIRMATION WITH THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 47 U.S.C. SEC. 225 ET SEQ.

RULE 2: ADOPTION OF FEDERAL REGULATIONS

For the purpose of providing telecommunications relay services in the State of Colorado, the Commission adopts the Federal Communication's Rules and Regulations (chapter 1 of Title 47 of the Code of Federal Regulations, part 64) found at §64.601, and §64.604,(a) and (b). These rules establish mandatory minimum operational and technical standards. These rules require that telecommunication relay services providers relay communicated messages promptly and accurately, maintain the privacy of persons who receive telecommunications relay services, and preserve confidentiality of all parties in connection with relayed messages.

Rule 3: ENFORCEMENT

The Commission shall resolve any complaint alleging a violation of this Rule pursuant to its normal complaint process (see the Commission's Rules of Practice and Procedure codified at 4 CCR 723-1), except that final action regarding such complaint shall be taken by the Commission within 180 days after the complaint is filed.

Rule 4: PUBLIC ACCESS TO INFORMATION

All local exchange providers and interexchange carriers, through publication in their directories, periodic billing inserts, placement of telecommunications relay services

instructions in telephone directories, through directory assistance services, and incorporation of telecommunications relay service numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and the use of telecommunications relay services.

Rule 5: JURISDICTIONAL SEPARATION OF COSTS

- 5.1 Where appropriate, the costs of providing telecommunications relay services shall be separated in accordance with applicable federal separations procedures and agreements (see §40-15-108(1)).
- 5.2 Costs caused by interstate telecommunication relay services shall be recovered according to applicable federal rule. Costs caused by intrastate telecommunication relay services shall be recovered from the intrastate jurisdiction consistent with this Rule.

PART 2

CONFIRMATION TO COMMISSION'S QUALITY OF SERVICE RULES

RULE 6: ADOPTION OF RULE 4 CCR 723-2

The provider of the telecommunications relay services in the State of Colorado shall be subject to the Rules Regulating Telecommunications Service Providers and Telephone Utilities, found at 4 CCR, 723-2. However, where the standard or requirement of Rule 2 exceeds or is more stringent than those of this Commission's Rules found at 4 CCR 723-2, the standard or requirement of Rule 2 shall be adhered to by the telecommunications relay service provider.

PART 3

RATES

RULE 7: TYPES OF CALLS THAT ARE INCLUDED AS TELECOMMUNICATIONS RELAY CALLS

Intrastate local, intraLATA interexchange, and interLATA interexchange calls shall be included as telecommunications relay services. The costs of any long-distance service or any other service that is not a basic local exchange service is to be borne by the telecommunications relay service user, provided that telecommunication relay service users shall pay rates no greater than the rate paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from the point of origination to the point of termination.

PART 4

POWERS AND DUTIES

RULE 8: COMMISSION POWERS AND DUTIES

- 8.1 The Commission shall administer and contract for telecommunications relay services. The costs of the contract provider of telecommunications relay service shall be paid by the Commission, as Administrator, from the Colorado Disabled Telephone Users Fund. The contract shall conform to these rules, and shall make available adequate procedures and remedies for enforcing the requirements of this Rule.
- 8.2 Each month, the Commission shall request reimbursement of its expenses from the State Treasurer, who shall remit that amount and shall debit the same from the Colorado Disabled Telephone Users Fund.
- 8.3 The Commission may, at its own expense, audit the records of a local exchange provider.
- 8.4 The Commission shall make timely application to the Federal Communications Commission for certification of the Colorado telecommunications relay services program.

PART 5

PROCEDURES FOR ADMINISTERING THE COLORADO DISABLED TELEPHONE USERS FUND

RULE 9: APPLICABILITY

Rules 10 through 14 are applicable to all providers of basic local exchange telecommunications services, certificated to do business in the state.

RULE 10: FUND ADMINISTRATION

The Commission shall determine, and by appropriate order, impose a uniform charge on each business and residential telephone access line in a uniform amount. So that such charge can be adjusted on or before July 1 of each year, beginning with the 1993 fiscal year, the Commission will require certain information. It is the intent of the Commission to enter appropriate orders on or before May 1 of each year to allow time for each provider to change its tariff.

To assist the Commission:

- 10.1 The contract provider of telecommunications relay services shall forward to the Commission by April 1, of each calendar its estimates of demand usage and contractual cost for the coming fiscal year.
- 10.2 Each provider of local exchange telecommunications services shall, by April 1 of each calendar year, report to the Commission its estimate of the number of telephone access lines that will be subject to the uniform charge, and its estimate of its administrative cost in imposing and collecting the surcharge; as well as the historic monthly amounts of collections generated by the surcharge, the expenses of the program, and amounts deposited with the Colorado Disabled Telephone Users Fund as managed by the State Treasurer. However, providers of basic local exchange telecommunications services, having less than 500,000 subscribers, may report using an average cost to administer.
- 10.3 The State Treasurer shall forward to the Commission by April 1 of each calendar year an accounting of the transactions occurring in the Colorado Disabled Telephone Users Fund.

- 10.4 The Commission by April 1, of each calendar year shall estimate its administrative expenses incurred under § 40-17-101 through 104, C.R.S.
- 10.5 The Commission, within 30 days of receipt of each report and after examining same, shall calculate the uniform charge based upon the undisputed amounts. Disputes concerning the amounts due for reimbursements from the fund, shall be resolved through the Commission's administrative hearing process.
- 10.6 If the monthly uniform charge, as determined by this Rule, per telephone access line exceeds fifteen cents, the Commission shall within twenty days prepare a report for the Legislative Appropriation Committees which would justify any additional increase in the monthly uniform charge.

RULE 11. UNIFORM CHARGE.

11.1 The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed to each telephone access line provided by a local exchange provider.

11.2 The uniform charge shall not be included in each subscriber's bill as part of the subscriber's base rate. The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each local exchange provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Fund."

11.3 Upon collecting the uniform charge, each local exchange provider may retain, from the total charges collected, an amount not to exceed three-quarters of one percent of the amount of total monthly uniform charges collected by such local exchange provider, to reimburse such provider for its administrative costs in imposing and collecting the uniform charge. If the total collected is in excess of the amount sufficient to reimburse the provider, the provider shall remit the excess to the State Treasurer, who shall credit the same to the Colorado Disabled Telephone Users Fund.

11.4 Each local exchange provider shall maintain a record of the monthly uniform charge imposed on each customer and collected by the local exchange provider. Said records shall be maintained by the local exchange provider for a period of three years from the date of billing.

**RULE 12: ADMINISTRATION OF THE FUND FOR THE
FISCAL YEAR 1992.**

For the fiscal year 1992, the Commission shall administer the Colorado Disabled Telephone Users Fund. On July 1, 1992, any moneys created by §40-17-103, as said section existed prior to July 1, 1992, shall be credited to the Fund as created by §40-17-104.

- 12.1 The uniform charge imposed pursuant to §40-17-103, C.R.S., as said section existed prior to July 1, 1992, shall continue to be billed to each telephone access line provided by a local exchange provider.
- 12.2 The uniform charge shall not be included in each subscriber's bill as part of the subscriber's base rate. The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each local exchange provider. The charge shall be listed as the "Colorado Disabled Telephone Users Fund."
- 12.3 Upon collecting the uniform charge, each local exchange provider may retain, from the total charges collected, an amount not to exceed three-quarters of one percent of the amount of total monthly uniform charges collected by such local exchange to reimburse such provider for its administrative costs in imposing and collecting the uniform charge. The provider shall remit the excess to the State Treasurer, who shall credit the same to the Colorado Disabled Telephone Users Fund.
- 12.4 Each local exchange provider shall maintain a record of the monthly uniform charge imposed on each customer and collected by the local exchange provider. Said records shall be maintained by the local exchange provider for a period of three years from the date of billing.

4 CCR 723-28-PART 6

WAIVERS FROM RULES AND INCORPORATION OF RULES OF THE FEDERAL COMMUNICATIONS COMMISSION BY REFERENCE

RULE (4 CCR) 723-28-13. WAIVER FROM RULES. The Commission may permit variance from these rules for good cause shown if it finds compliance to be impossible, impracticable, or unreasonable, if not otherwise contrary to law.

RULE (4 CCR) 723-28-14. INCORPORATION BY REFERENCE. References in these rules to Part 64 are rules issued by the FCC and have been incorporated by reference in these rules. These rules may be found at 47 CFR Part 64, revised as of October 1, 1995. References to Part 64 do not include later amendments to or editions of those parts. A certified copy of this part which has been incorporated by reference is maintained at the offices of the Colorado Public Utilities Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and is available for inspection during normal business hours. Certified copies of the incorporated rules shall be provided at cost upon request. The Director, 1580 Logan, Office Level Two, Denver, Colorado 80203, will provide information regarding how Part 64 of Title 47 Federal Code of Regulations dated October 1, 1995, may be obtained or examined. These incorporated rules may be examined at any state publications depository library.